IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

CRP.No. 284 of 2001(E)

AGAINST THE ORDER DATED 08/10/1998 IN EP.242/1996
IN OS.676/1984 of M.C.,KOZHIKODE-II

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REVN. PETITIONER:Petitioner/Plaintiff:

Madathil Aasya Umma, D/o. Ammad, residing at Padinhattum muri amsom, Moorikkara desom, Kozhikode.

BY ADV. SRI.D.KRISHNA PRASAD
SRI.D.NARENDRANATH
SRI.JOJI VARGHESE
SRI.M.HARISHARMA
SRI.T.P.ELDHOSE

RESPONDENTS: Respondents/Defendants 1 and 2:
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1. Parambath Asokan, S/o. Apputty, Padinhare Peedikayil, Chevayur amsom desom, Kozhikode Taluk.

2. C.Narayanan vaidyar, S/o. Unnithan, 21/46, Malaparamba Housing Colony, Chevayur amsom desom.

BY ADV. SRI.P.V.KUNHIKRISHNAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.284 of 2001

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Dated this the 22nd day of October, 2007.

ORDER

This revision petition is preferred against the order of the Munsiff - II, Kozhikode in E.P.No.242 of 1996 whereby the court dismissed the Execution Petition for want of evidence. The Execution Petition was filed for arrest and detention of the judgment debtors in spite of means and negligence to pay the amount. Unfortunately, the decree holder did not step into the box nor did she not produce any documents to prove the means of the judgment debtors. Therefore, the court had dismissed the Execution Petition.

2. Now the learned counsel for the revision petitioner submits that if an opportunity is given, the decree holder will be able to satisfy the court regarding the means of the judgment debtors and therefore, prays for an opportunity. I heard learned counsel for the respondents as well.

3. In order to enable the decree holder to prove the means of the judgment debtors, I feel that an opportunity has to be given. Therefore, the order under challenge is set aside and the matter is remitted back to the court below for fresh disposal after affording opportunities to both the decree holder and the judgment debtors to prove their respective contentions. Parties are directed to appear before the court below on 23.11.2007.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 22/10